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UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

DAVID STEBBINS,

PLAINTIFF

VS.

Case 3:21-cv-04184-JSW

KARL POLANO, et al

DEFENDANTS

MOTION FOR LEAVE TO FILE ADDITIONAL AMENDED COMPLAINT

Comes now, *pro se* Plaintiff David Stebbins, who hereby submits the following motion for leave to file an additional amended complaint.

1. On April 18, 2021, Polano and I participated in a collaborative stream on Twitch. Polano and I are co-authors of that stream. I have registered the copyright for that stream in September of 2021. Because I am a co-author, that means I am entitled to a 50% cut of any revenue that Polano earns from publishing or distributing the stream. I registered the copyright on September 14, 2021 and listed Polano as a co-author.

2. Some time in November 2021 (the exact date is unknown), Polano played a clip from that collab stream on his Twitch channel without making any arrangements to ensure that I would receive half the revenue from that stream. My registration of the copyright predates his publication of this clip, so I can recover statutory damages for it. I issued a DMCA Takedown to Twitch against this stream, and Twitch removed it. If that stream was still up, it would be visible at the following URL: <https://www.twitch.tv/videos/1204585043>

3. In addition to this, Mateas also created a video of his own clip from this stream. He is *not* a co-author of that joint work, so his creation of that clip is pure copyright infringement, period. I issued a DMCA Takedown against this clip at the same time I issued a Takedown against the corresponding stream mentioned in ¶ 2, and it was taken down by Twitch. If that clip was still up, it would be visible at the following URL:

<https://www.twitch.tv/sofiannp/clip/FurrySmoothBobaPJSugar-v1l0MAmdY3gKNM9g>

4. On December 20, 2021, Polano intended to broadcast a full re-run of that stream on his Youtube channel. However, as a co-author, I am entitled to a 50% cut of the revenue from that video, which he has not given me and has no intention of giving me. I issued a DMCA Takedown to Youtube, and it was quickly taken down. If that video was still up, it would be visible at the following URL: <http://www.youtube.com/watch?v=C-lpsNnwTaQ>

5. The actions mentioned in ¶¶ 2-4 of this motion document three additional infringements that I wish to have included in this case.

6. It is important to note that these infringements were all done for the same reasons that the first 17 counts of infringement were being done for: To harass and dox me for its own sake, and to ruin my career on Youtube and Twitch for its own sake. Although Polano and Mateas avoided using clips from the April 10, 2021 accidental livestream, their videos in the instant case were done for the exact same purpose as those infringements. As such, I believe that these infringements are “related” the original complaint sufficiently to be grouped under one case.

7. I have issued DMCA Takedowns on both of those infringements. They were removed by Twitch and Youtube, respectfully, but Polano issued Counter-Notifications to them. See **Exhibits A and B**.

8. I have since filed a Motion for Leave to File Third Amended Complaint (see Doc. 71), but the Court has decided to defer adjudication on that motion until all the defendants have appeared in the case. See Doc. 89.

9. The papers for service of process have arrived in the countries of Switzerland and the UK respectively. See **Exhibits C and D**. It is estimated that it will take 2-4 months before we hear from the Swiss government regarding service of process, and 3-5 months before we hear from the British government. See **Exhibit E**¹. At this point, there is nothing we can do to make service of process go any faster. At this point, it is just the waiting game. See <https://www.haguelawblog.com/2019/06/things-take-longer-overseas-get-used-to-it/> (“Things take longer overseas. Get used to it”).

10. However, because Polano has issued DMCA counter-notifications, I have to file *something* in order to prevent Twitch and Youtube from reinstating the videos. So I am filing this motion. I expect the Court will want to defer a ruling on this motion until all defendants either have appeared or have been entered in default (as is the case with Frederick Allison). That is fine. A text-only order deferring a ruling until that occurs would suffice for the time being. I am simply filing this motion in order to prevent the reinstatement of these infringing materials.

11. Once all defendants have either appeared or been entered in default, then I will draft my new Third Amended Complaint to include, not just these new claims of infringement, but also list the corporate defendants' subsidiaries (Youtube LLC and Twitch Interactive, Inc.) as defendants in this case.

12. Wherefore, premises considered, I respectfully request that I be granted leave to amend

¹ Furthermore, I suspect that the monthly estimates shown in Exhibit E were actually taken before the pandemic, meaning that these services of process are likely to take even longer.

my complaint once more.

So requested on this, the 25th day of January, 2022.

/s/ David Stebbins
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